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SEP 17 2004

In re Application of :
Alain Duerr :
Application No.10/736,957 :
Filed: December 16, 2003 :
Attorney Docket No. 66012-0010 :

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on the petition filed August 5, 2004, requesting that the above-identified application Be accorded a filing date of December 16, 2003, with the one sheet of drawing filed on that date as part of the original disclosure.

On December 16, 2003, the above-identified application was filed. On July 28, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not be accorded a filing date because drawings were not found with the application papers, but appeared to be required. The Notice also required an oath or declaration to be filed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on August 5, 2004, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, one sheet of drawings was received on December 16, 2003.

Upon review of the record, one sheet of drawings containing Figures 1, 2, 2a, 3, 3a, 4, and 5 were found among the application papers. Further, the Office date-stamped postcard acknowledges receipt of one sheet of drawings on December 16, 2003. Therefore, the application, including the one sheet of drawings was complete on filing and entitled to a filing date of December 16, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly. Deposit account 18-0013 will be refunded the petition fee of \$130.00

It is noted that an oath or declaration was not found with the petition papers. The instant decision is intended to resolve the question of whether a filing date should be accorded the application. It is assumed that the Office of Initial Patent Examination will now issue a Notice to File Missing parts of Nonprovisional Application requiring an oath or declaration and surcharge for the late filing of the same.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 16, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions